



# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**MAY 22, 2018**

*DRAFT-To be approved by a motion on June, 12 2018*

## **1. Call the Meeting to Order**

President Tunnickliff called the meeting to order at 6:00 p.m. on Tuesday, May 22, 2018, in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

### **Introduction of Planning Board Members and Planning Department Staff**

President Tunnickliff called for introductions of the members of the Planning Board and staff.

**Attending Planning staff members:** Wyeth Friday, Director, Planning & Community Services; Monica Plecker, Planning Division Manager; Tammy Deines, Planning Clerk

**Others in Attendance:** Ron Isakson, CTA; Marshall Phil, Blueline Engineering; Ed Gulick, BPAC, Kristi Drake, BPAC; Patrick G Weber; John R Kastner; Sheila McKary, WJH Bird Resources; Karen Hayes; Deb Julien; Mary Catherin Brownlee; Blaine Poppler; Jane VanDyk, BPAC; Donna Bernhardt; Stephanie Cowen; Terry Rudio; Lawrence Barber; Ben Sickler; Kristi Drake; Sam Parks; Rod Lorenz; Kathryn Sath

### **Approval of the May 22, 2018 Agenda**

#### **Motion:**

**Board member Woods made a motion and it was seconded by Board member Boucher to approve the May 22 2018 meeting agenda as submitted. The agenda was approved with a unanimous voice vote.**

### **Approval of Minutes: May 8, 2018.**

#### **Motion**

**Board member Cook made a motion and Board member Woods seconded the motion to approve the May 8, 2018 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

3. **Public Comment:** President Tunnickliff asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public may be heard on any subject that is not on the agenda; the Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. There were no public comments.

### **5-6. Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff.**

The Ex Parte Communication Binder is available at the Sign-In and Agenda station. There were no Conflicts of Interest and no Ex Parte Communications reported by the Board.

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### 7. NEW BUSINESS

**Presentation. Discussion. Bicycle and Pedestrian Advisory Committee, (BPAC), Annual Presentation Lora Mattox, Transportation Planner, BPAC members presenting.**

Ed Gulick, Chairman, BPAC, opened his presentation.

Committee Members: Chair: Ed Gulick (Planning Board); Vice Chair: Kristi Drake (City); DJ Clark (County); Zach Hassler (County); Amber Sundsted (City); Jane Van Dyk (City); (1) County position to fill

The Advisory Committee’s primary task Identify barriers to safely walking or bicycling throughout Billings and portion of Yellowstone County in the MPO area, and to recommend solutions to City and County Planning and Public Works staff and the governing bodies based on public input and transportation industry standards.

#### ***Bicycle and Pedestrian facilities ensure***

**Safety:** Predictable environment where both bicyclists and pedestrians and drivers know what to expect from each other (turning, stopping)

**Health:** Physical activity – “Active Transportation”; Center for Disease Control recommends 25 minutes per day/6 days per week moderate-intensity aerobic activity, (i.e., brisk walking) every week; Low levels of physical activity have contributed to obesity—66% of adults are obese or overweight in Yellowstone County, according to 2016-2017 Yellowstone County Community Health Needs Assessment

#### **Quality of Life**

Children – can they safely walk or ride to school and after-school activities? Or do parents need to drive them?

The Aging population increasingly wants to live in walkable, bikeable, interactive neighborhoods so they can age in place.

Millennial Generation in particular attracted to places that foster a healthy lifestyle and connection to place

Connect neighborhoods to Rims and river—unique assets

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**Economic Vitality:** Quality of life is key economic driver; Need access to trails from downtown hotels; Encourage visitors to stay longer, recreate here

Mr. Gulick summarized the issues in the forefront:

1. There is broad support for trails and bikeways for recreation and active transportation, including the general public, health community, and business community.

1. There is broad support for trails and bikeways for recreation and active transportation, including the general public, health community, and business community.
2. There are significant opportunities for world-class trails as well as better biking connections within the city and county.
3. Federal transportation funding dedicated to pedestrian and bicycle infrastructure has decreased significantly in the past 4 years.
4. If our community wants to continue progress in trails and bikeways, it will need to either reprioritize some existing transportation funding and/or create new sources of funding.

Mr. Gulick stated the Chamber of Commerce, and the local health and business community supports walking and bicycling. He presented a slide of the Marathon Loop and pointed out the remaining segments to be constructed to complete the Loop, including Skyline Trail, (\$3.5 million); Zimmerman Trail, (3.15 mill); the Jim Dutcher Trail (1.5), and the Zoo-to Riverfront Park connection. Bicycle boulevards have been introduced a solution for neighborhood streets that already have low speed and volumes as a parallel network. This year, a trail connector will be implemented on 6th Avenue to connect to the Heights. Federal funding for Active Transportation has decreased significantly. The community needs to find new avenues to fund trail and bikeway infrastructure as it is estimated. approximately 1 million/year is needed to fill the Federal funding gap.

### **Opportunities for new funding streams:**

- **County gas tax (similar opportunity as % of recent state gas tax increase)**
- **Trails District**
  - Acknowledges that trails are the #1 priority for our parks system

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- Similar to Lockwood Pedestrian Safety District, a mill levy (10 mils) that raises about \$240,000/year
- The Lockwood District was then able to leverage a \$333,000 Transportation Alternatives federal grant
- **GO Bond (General Obligation Bond)**
- In 1990’s, Billings passed \$599K GO Bond that lasted 10 years when leveraged with other sources
- More dedicated local sources of funding = easier to get matching funds from federal and private grants and donations

Mr. Gulick said the Committee was able to obtain funding for 50 new bike racks downtown this year.

### **Discussion**

President Tunncliff asked the Board for questions or discussion. He thanked Mr. Gulick and stated the Committee should be proud of their accomplishments. A citizen in the audience suggested creating rest areas for pedestrians and bicyclists and renting advertisement space on the benches. Jon Thompson commented this may be possible with consideration of the rules that limit advertising within City parks.

### **8. OLD BUSINESS:**

**8a. Public Hearing. Motion/Recommendation to City Council. Coal Creek Subdivision Lts 7-17. City Major Subdivision. Magnus Land Development, Owner. Ron Isackson, CTA agent. Monica Plecker, Planning Division Manager, presenting.**

Monica Plecker opened this agenda item with an overview of the staff report, findings of fact, and the conditions of approval. City Council will take action on June 25, 2018.

### **INTRODUCTION**

On April 2, 2018, CTA, agent for Magnus Land Development, LLC, owner, applied for preliminary major plat approval for Amended Lots 7-17, Coal Creek Subdivision. The proposed subdivision creates 6 new lots for commercial development. The subject property is generally located on the northwest corner of the intersection of Rimrock Road and 62nd Street West. The property is zoned Community Commercial (CC).

### **RECOMMENDATION**

Staff recommends the Planning Board recommend conditional approval of the preliminary plat of Amended Lots 7-17, Coal Creek Subdivision to the City Council, and adopt the Findings of Fact as presented in the staff report.

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## **PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. To ensure the storm water system is properly maintained, prior to final plat approval the applicant will add the following to the storm drain section of the SIA:
  - 'The storm water retention areas and associated improvements will be privately owned and maintained by the HOA. O&M requirements and HOA responsibilities shall be as outlined within the City of Billings Storm water Management Manual (SWMM), appendices E and F. Retention areas shall be covered with a blanket easement, allowing access by the City. If the HOA fails to maintain the storm water retention facilities, the City reserves the right to create a maintenance district in the subdivision to maintain the storm water retention facilities.'
2. To bring the infrastructure section of the SIA into conformance with the subdivision regulations, prior to final plat approval the applicant will work with City Planning and Engineering to either write this section and include documentation to meet the requirements of phasing; or rewrite the portion of the SIA to define what improvements will be constructed initially and what remaining items will be bonded or have an irrevocable letter of credit to guarantee infrastructure installation at a later time.
3. To minimize the effects on local services and to have minimum road width requirements met, prior to final approval the applicant shall change the beginning of the sentence in the SIA under III Transportation A. Streets, at the last bullet point that states, 'The southern half of Signal Peak Avenue' to read, 'The southern half, a minimum of 30 foot asphalt width, of Signal Peak Avenue will be constructed from the western boundary of the subdivision east to 62nd Street West.'
4. To eliminate confusion and ensure the correct access is constructed as allowed, prior to final plat approval the applicant will change a sentence in the SIA under the heading E. Access, 62nd Street West sentence b., which says 'The Second full movement access', to read 'The second proposed access will be a 3/4 access and is approximately 650 ft. north of the 62nd Street West and Rimrock Road intersection'. The applicant will also change the sentence directly under the heading '62nd Street West' that states 'Two full movements' to read 'One full movement and one 3/4 movement'
5. To minimize the effects on local services and enable more useable roadways, prior to final plat approval the applicants' TIS shall be reviewed and approved by the City of Billings Engineering Division. The approval shall outline any additional requirements that developer will be responsible to construct. This review will also confirm or correct the contributions for street improvement from the developer listed in the SIA.
6. To minimize the effects on local services, prior to final plat approval the subdivider will provide a letter from the United States Postal Service acknowledging its agreement with the placement of mail delivery facilities in the subdivision.
7. To ensure the provision of easements for utilities, prior to final plat approval the subdivider shall provide utility easements on the final plat as requested by the private utility companies.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules,

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regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **Discussion**

Ms. Plecker pointed out there are various means that may be used for storm water management but the applicant will be required to mitigate the storm water on site or connect to the City system when construction is completed.

President Tunncliff called for questions and discussion from the members of the Board. There was none.

### **Public Hearing**

At 6:34 p.m., President Tunncliff opened the public hearing and asked if there is anyone wishing to speak in favor or against Creek Subdivision, Lts 7-17.

### **Ron Isackson, CTA Architects, Bozeman, [roni@ctagroup.com](mailto:roni@ctagroup.com)**

Mr. Isackson stated this is an amendment of a portion of the Coal Creek Subdivision. The TIS has been submitted and conditionally approved. Requirements will include improvements to Rimrock Road. A trail access is planned along the Cove Creek Ditch.

President Tunncliff closed the public hearing and called for a motion.

### **Motion**

**Board member Thompson made a motion and it was seconded by Board member Cook to forward a recommendation of recommend conditional approval of the preliminary plat of Amended Lots 7-17, Coal Creek Subdivision to the City Council, and adopt the Findings of Fact as presented in the staff report.**

### **Discussion**

President Tunncliff called for discussion on the motion. There was none.

The motion carried with a unanimous voice vote.

**8b. Public Hearing. Motion/Recommendation. Mackenzie Meadow Subdivision, David E. Wagner, owner. Blueline Engineering agent. Monica Plecker, Planning Division Manager, presenting.**

Monica Plecker opened this agenda item with an overview of the staff report, findings of fact, and the conditions of approval. The Yellowstone County Board of County Commissioners will be considering the application at its regular meeting on June 19, 2018.

### **INTRODUCTION**

On April 2, 2018, the Planning Division received an application for major plat approval for the proposed Mackenzie Meadows Subdivision, 2nd Filing. The property is generally located on the south side of Neibauer Road between South 48th Street West and South 56th Street West. This subdivision would create

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183 lots from a 167.9-acre parcel for residential and commercial use. The land is currently used for farming. The majority of the land is outside of zoning with a smaller portion of the parcel being developed inside of zoning.

### RECOMMENDATION

Staff recommends that the Yellowstone County Board of Planning recommend that the Board of County Commissioners conditionally approve the preliminary plat of Mackenzie Meadows Subdivision, 2nd Filing and adopt the Findings of Fact as presented in the staff report.

### PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To provide for needed maintenance of internal ditches for downstream water users, prior to final plat approval, the applicant will add language in the SIA under IX Irrigation that states the ditches will be accessible for future maintenance until a time in the future when there are no longer downstream users.
2. To protect public health and safety, prior to final plat approval the applicant will receive approval from the MDEQ for the proposed water wells, community septic system and the proposed storm water management.
3. To protect public health and safety and provide efficient traffic movement, prior to final plat approval the applicant will submit a TIS to County Public Works for review and approval. Should the TIS identify any road widening or turn lanes required on Neibauer Road or South 56th Street West, the applicant will install those required improvements with oversight from County Public Works.
4. To provide for future maintenance of all public roads, parkland and trail easements within Mackenzie Subdivision, prior to final plat approval the applicant will create an RSID-M for the public roads and an RSID-M for the parkland.
5. To protect public health and safety and to ensure a usable dry hydrant system, prior to final plat approval the applicant will provide construction drawings to the BUFSA for the dry hydrant system and receive approval before construction begins within a public easement. The system must be tested and approved by the BUFSA after installation and an RSID created for the maintenance of the dry hydrant system.
6. To protect the surrounding lands and not introduce noxious weeds into the subdivision, prior to final plat approval the applicant will add language to the SIA describing the re-vegetation plan for the public parks and what type of seed will be used.
7. To minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
8. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
9. To ensure correct zoning for the proposed lots in the zoned area of the subdivision, prior to final plat approval the applicant will go through the zone change process to have correct zoning for the proposed lot sizes.
10. To ensure the placement of easements for private utility providers, prior to final plat approval the applicant will coordinate with private utility companies to provide needed easements within the proposed subdivision.
11. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
12. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

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Ms. Plecker stated staff is recommending an additional condition of approval:

*13. To minimize the effects on local services, prior to final plat approval the subdivider shall prepare a park maintenance district to be included with the final plat that differentiates between park areas with subsurface sewage drainage systems and areas that do not, and the subdivider shall insure that the private entity maintaining the wastewater system obtain an easement for the drain fields in the park. The County Park Board shall approve the drain field easement prior to final plat approval.*

Ms. Plecker noted Condition of Approval #9 and stated the applicant will be allowed to move forward for final plat review if a request for a zone change is granted to R-15,000.

### **Discussion**

Board member Woods asked if discussions were held regarding sidewalk construction during Phase 1 of development. Ms. Plecker pointed out that per the County Regulations, the portion of the parcel zoned R-15,000 would require sidewalks. There is no proposed change from the plat review. Board member Thompson asked Ms. Plecker to identify the location of the drain fields and asked how much of the parkland area will be used for this purpose? Ms. Plecker stated the applicant will provide this information through the DEQ submittal and report.

### **Public Hearing**

President Tunnick opened the public hearing and asked if there is anyone wishing to speak in favor or against MacKenzie Meadow Subdivision.

### **Favor:**

#### **Marshall Phil, Blueline Engineering, 2110 Overland Ave, Billings, Montana**

Mr. Phil is the applicant's agent. He clarified and stated the west half of this parcel is un-zoned, and will not have sidewalks. He stated about 50% of the parkland will be used for drain fields and the remaining 50% will act as a drain field replacement area.

### **Opposed:**

#### **Patrick Weber, 2210 Anna, Billings, Montana**

Mr. Weber voiced concerns with potential adverse effects on well and water quality issues with the additional units. He said five residents in his neighborhood have had to re-drill their wells due to the low aquifer.

#### **Sheila Hancock McKay, WJH Bird Resources, 2753 S. 56<sup>th</sup> Street West**

Ms. Hancock's property is a wetland preserve for a population of native birds. She has had discussions with Mr. Peila, who has been responsive. She feels that "It is much better to use what nature puts there the way nature puts it there". Ms. Hancock is very active in wildlife committees and wildlife preservation. She stated she is disappointed to find the

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park will be located next to Neibauer Road as it will draw animals who may be injured with the traffic.

### **Stephanie Cowen, 4940 Anna Circle, Billings, Montana**

Ms. Cowen lives east of this proposed subdivision. She voiced concerns with the potential effects on the water table as they have had to drill a second well; children's safety with the additional traffic. She said Canyon Creek is a major thoroughfare for wildlife, and the removal of agricultural lands as this contributes to less water availability.

### **Jon Kastner, 2330 Anna Drive, Billings, Montana**

Mr. Kastner voiced concern with the water table as he has had to drill a second well. He too is concerned with children's safety. He asked if widening the road to address the traffic is a possibility. Mr. Kastner said this development will have an adverse effect on the wildlife.

### **Debra Julien, 2460 CH Wagner Road, Billings, Montana**

Ms. Julien said she is concerned with the additional wells lowering the aquifer; and the potential for septic leakage into the ground water. She asked for an explanation of the fire suppression system as there has been a fire event in the past. Ms. Julien expressed a need for weed control on the lots. She is concerned with potential contamination of the well water; availability of well water; impact to schools; increased traffic; and childrens' safety..

### **Terry Rudio, 2305 Anna Drive, Billings, Montana**

Mr. Rudio is concerned with the water availability and the increased traffic on Neibauer Road and 48th Street West. He asked what can be done with the intersection to reduce accidents and traffic congestion.

### **Jon Kastner, 2330 Anna Drive, Billings, Montana**

Mr. Kastner asked what will happen should the drain fields become saturated as this adversely affect the neighboring properties.

### **Josh Muir, 5470 Anna Marie Drive, Billings, Montana**

Mr. Muir resides in Conrad Park Subdivision. Mr. Muir's concerns are related to minimizing noise, air, and water pollution. He has lived in this location for about two years and has had unresolved issues with the adjacent property owner. They experience light pollution from the adjacent parcel. He asked if there is language to address screening and buffering of incompatible land uses in order to preserve property values.

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He reported an explosion took place when the fire event occurred. Since there is no barrier between their subdivision and the commercial uses, material was launched to the north that could have landed on his home. There have been multiple discussions with the adjacent property owner regarding possible solutions and written acknowledgements stating it needs to be addressed but it has not been resolved. Mr. Muir stressed the need for wording to address light pollution. His primary concern is having adjacent incompatible land uses next to residential properties.

### **Rebuttal**

President Tunnick called for rebuttal.

### **Marshall Phil, Blueline Engineering, 2110 Overland Ave, Billings, Montana**

Mr. Phil explained that the general water flow is to the southeast, and the neighboring properties to the north and to the west will not be impacted. The applicant is working with DEQ and DNRC for additional review of the aquifer. A 30,000-gallon dry hydrant tank will be installed in the event of a fire. There will be internal mailbox access locations and school bus collection of students. He noted Condition of Approval #3, which denotes “should the TIS identify any road widening or turn lanes required on Neibauer Road or South 56th Street West, the applicant will install those required improvements with oversight from County Public Works”. The zone change application will be submitted soon and the property owners will be contacted within a 300-foot radius as a part of the review.

### **Sheila Hancock McKay, WJH Bird Resources, 2753 S. 56<sup>th</sup> Street West**

Ms. McKay asked for recognition and permission for additional comment and President Tunnick acknowledged this request. Ms. McKay stated this property is an old agricultural area and there is need for proper care of environmental contaminants such as dead animals and chemicals from old farming practices.

Monica Plecker explained the review process. On June 19, 2018, the BOCC will make a decision on the preliminary plat. The conditions of approval have to be met within a 3-year time period, including the required zone change, which will be heard by the County Zoning Commission and the BOCC. Property owners within 300-feet of the property will receive written notification of the hearing dates and times for this application.

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At 7:12 p.m., President Tunnickliff asked if there is anyone else wishing to speak in favor or against MacKenzie Meadow Subdivision. There was none. President Tunnickliff closed the public hearing and called for a motion.

### **Motion**

**Board member Williams made a motion and Board member Boucher seconded the motion to forward a recommendation to the Board of County Commissioners to conditionally approve the preliminary plat of Mackenzie Meadows Subdivision, 2nd Filing and adopt the Findings of Fact as presented in the staff report with the addition of Condition of Approval #13.**

### **Discussion**

President Tunnickliff called for discussion on the motion. Board member Woods said it doesn't make sense that sidewalks will not be included in the first phase for the safety of the residents just because the zoning line segregates the properties. He related this instance to Lockwood Pedestrian Safety District, which was created due to a lack of sidewalks and accidental loss of life from a traffic incident. He will vote against the motion. Board member Thompson commented on the State law requirements for providing recreational space for residents. He feels that in this case; the proposal does not include parkland but drainage space instead. He said the positioning of the strip of parkland is too narrow for a playground or ball field; and the project is subverting the definition of parkland and what it is going to be used for. He is also concerned with the lack of sidewalks, and will vote against the motion. Board member Williams asked if another Condition of Approval can be included to address this. President Tunnickliff noted the concern with effects on wildlife habitat and attraction of wildlife to the highway. He is also concerned with issue of the lack of sidewalks.

### **President Tunnickliff called for a roll call vote:**

**(3)-Favor:** Board member Boucher; Board member Cook; Board member Williams

**(4)-Against:** Board member Woods; Board member Thompson; Board member Macon  
Board member Tunnickliff

**The motion failed, 3- in favor, 4-against. The Planning Board forwards a recommendation of denial of Mackenzie Meadow Subdivision to the Board of County Commissioners.** Planning Board members sited reasons of Public Health and Safety with the lack of sidewalks; effects on wildlife due disparaging of the wetlands and rare species; and circumventing the intent of the law for parkland requirements. Ms. Plecker offered to provide meeting minutes and the Board's comments regarding parkland requirements to the County Parks Board.

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### 9. OTHER BUSINESS/ANNOUNCEMENTS

#### 9a. Standing Item. Long Range Strategic Issues and an overview of future City and County issues and projects.

**1. Project Re:Code** Planning Division Manager Monica Plecker stated that the Planning Division is under contract with Safe Built Studios for Project Re:Code. The “County Issues Working Group” is meeting on Wednesday. Board member Thompson asked to be provided with a meeting schedule for the various committees. Discussion followed by members of the Board regarding the need to expand the zoning district and the need to make changes by working from legislative sessions.

**ADJOURNMENT:** 7:45 p.m.

DRAFT-To be approved by a motion on June 12, 2018